

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE VERIFICATION
PROCEDURE, WARRANTY, AND IN-USE COMPLIANCE REQUIREMENTS FOR
IN-USE STRATEGIES TO CONTROL EMISSIONS FROM DIESEL ENGINES**

Public Hearing Dates: December 11, 2003
February 26, 2004

Internet Posting Date: April 8, 2004

Public Availability Date: April 8, 2004

Deadline for Public Comment: April 23, 2004

At its February 26, 2004, public hearing, the Air Resources Board (ARB or the Board) approved amendments to sections 2701, 2702, 2703, 2704, 2705, 2706, 2707 and 2709, title 13, California Code of Regulations (CCR), which modify the verification procedure, warranty, and in-use compliance requirements (the "Procedure") for diesel emission control strategies in California. The Procedure was originally adopted by the Board on May 16, 2002, in support of the Diesel Risk Reduction Plan (DRRP), which was adopted by the Board on September 30, 2000. The DRRP outlines several measures to reduce in-use emissions of diesel particulate matter (PM). Current and future regulations, based on those measures, rely upon a variety of diesel emission control strategies to achieve PM reductions. Verification of a retrofit-based diesel emission control strategy using the Procedure serves to ensure that the strategy will be able to achieve real and durable emission reductions. The adopted amendments improve the effectiveness of the Procedure in supporting the goals of the DRRP. The amendments are described in detail in the Initial Statement of Reasons (Staff Report), released on October 24, 2003. Subsequent amendments proposed by staff at the February 2004 hearing are described herein.

The Board's Action

At the hearing, the Board adopted Resolution 03-38 approving the proposed amendments (a copy of the adopted resolution is in Attachment 1). Within the resolution, the Board directed the Executive Officer to adopt the proposed amendments after making available for public comment all changes specifically directed by the Board and any other necessary changes to the regulatory language as originally proposed in the Staff Report released on October 24, 2003. At the Board's direction, staff continued to work with end-user groups, members of the emission controls industry, and engine manufacturers in developing the proposed amendments. The proposed substantive

modifications are summarized below, and are set forth in detail in Attachment 2. For a copy of Attachments 1 and 2, please see “Availability of Modified Text.”

Summary of Proposed Modifications

Title 13, California Code of Regulations

Section 2706. Other Requirements

(b)(2): Staff modified the language describing the limits on emissions of carbon monoxide (CO) for stationary engines to maintain consistency with changes to the Stationary Compression Ignition Engine Airborne Toxic Control Measure (ATCM). As originally proposed, a diesel emission control strategy for stationary applications may not increase CO emissions by 10 percent above the baseline. Per the stationary engine ATCM, the diesel emission control strategy may alternatively meet the appropriate CO emission limit for off-road engines.

Section 2707. Warranty Requirements

(a)(1)(D): The original language stated that the repair or replacement of a warranted part may be excluded from warranty coverage at the applicant’s discretion if the applicant demonstrates that abuse, neglect, or improper maintenance was the cause of the failure. Staff deleted the references to the applicant in this subsection such that it now simply indicates that if abuse, neglect, or improper maintenance was the cause of the failure, that failure may be excluded from coverage. With this modification, the Procedure leaves the burden of proof to be determined according to existing legal authority.

(a)(Table 5.): Staff added a section to the Minimum Warranty Periods table which defines a separate minimum warranty period for certain long-haul trucks. For trucks with heavy heavy-duty engines that are typically driven over 100,000 miles per year and have less than 300,000 miles on the odometer at the time of installation, the minimum warranty period is 2 years, unlimited miles. This amendment gives certain long-haul trucks a longer period of coverage than under the previous 5 year, 150,000 miles warranty period.

(b)(1): Staff added language which explicitly allows the applicant to include, in its warranty statement, descriptions of circumstances that may result in a denial of warranty coverage. Any such descriptions may not limit warranty coverage in any way. Further educating the end-user as to which circumstances may result in denial of coverage should help to reduce the number of inappropriate warranty claims that are filed, and therefore ultimately the cost of emission control systems sold in California.

Section 2709. In-Use Compliance Requirements

(b)(2): The second phase of in-use compliance testing must be conducted using systems that have been in operation for 60 to 80 percent of the minimum warranty period. With the addition of the 2 year, unlimited miles minimum warranty period for systems used on certain heavy heavy-duty vehicles, it may be unclear how to apply the 60 to 80 percent window. For simplicity, staff added language indicating that for all systems used with heavy heavy-duty vehicles, the 60 to 80 percent window must be

applied to the 5 year or 150,000 mile warranty period. This is a clarifying change with no regulatory effect.

Availability of Modified Text

Attachment 1 (Board Resolution 03-38) and Attachment 2 (text of the modified language) are available online at ARB's internet site for the regulatory documents in this rulemaking:

<http://www.arb.ca.gov/regact/verpro03/verpro03.htm>

Attachment 2 contains the text of the regulations affected by the modifications being proposed with this notice. Additions to the originally proposed amendments are shown in double underline, and deletions are shown in ~~double strikeout~~.

Printed copies may be obtained by contacting Ms. Neidy Pinuelas, Branch Secretary, Heavy-Duty Diesel In-Use Strategies Branch at (626) 350-6454 or npinuela@arb.ca.gov, or by faxing or mailing the request form attached to the end of this notice to the address or number on the form.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt sections 2701, 2702, 2703, 2704, 2705, 2706, 2707 and 2709, title 13, CCR, after making them available to the public for comment for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments on the modifications must be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail must be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95812

Electronic mail must be sent to: verpro03@listserv.arb.ca.gov

Facsimile submissions must be transmitted to the Clerk of the Board at:
(916) 322-3928.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the three forms described above and received by ARB by 5:00 p.m. on April 23, 2004. Only comments relating to the modifications to the text of the regulations shall be considered by the Executive Officer.

If you have special accommodation or language needs, please contact Ms. Neidy Pinuelas, Branch Secretary, Heavy-Duty Diesel In-Use Strategies Branch at (626) 350-6454 or npinuela@arb.ca.gov as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Sincerely,

/s/

Robert H. Cross, Chief
Mobile Source Control Division

Attachments